

Title 22: HEALTH AND WELFARE
Chapter 1053-B: TEMPORARY ASSISTANCE FOR NEEDY
FAMILIES HEADING: PL 1997, c. 530, Pt. A, §16 (new)

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Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 1053-B: TEMPORARY ASSISTANCE FOR NEEDY
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§3762. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES; PROMOTION OF ECONOMIC SELF-SUPPORT

The department shall promote family economic self-support in accordance with the provisions of this chapter. [1997, c. 530, Pt. A, §16 (NEW).]

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "ASPIRE-TANF" means the ASPIRE-TANF program established in section 3781-A. [1997, c. 530, Pt. A, §16 (NEW).]

B. "Domestic violence" has the same meaning as provided in Section 408(a)(7)(C)(iii) of PRWORA. [1997, c. 530, Pt. A, §16 (NEW).]

B-1. "DRA" means the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4. [2009, c. 291, §4 (NEW).]

C. "Federal poverty level" means the nonfarm income official poverty line for a family of the size involved, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2. [1997, c. 530, Pt. A, §16 (NEW).]

D. "PRWORA" means the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105. [1997, c. 530, Pt. A, §16 (NEW).]

E. "TANF" means the Temporary Assistance for Needy Families program, under the United States Social Security Act, as amended by PRWORA. "TANF" provides temporary assistance to needy, dependent children and their parents or caretaker relatives. [1997, c. 530, Pt. A, §16 (NEW).]

[2009, c. 291, §4 (AMD) .]

2. Collaboration. The department shall work collaboratively with the following agencies and entities to provide efficient and effective services that lead to self-support for Maine's families receiving TANF assistance:

A. The state agency responsible for child care services; [1997, c. 530, Pt. A, §16 (NEW).]

B. The Department of Labor for services including employment and job training partnership services and vocational services; [1997, c. 530, Pt. A, §16 (NEW).]

C. [2005, c. 397, Pt. A, §23 (RP).]

D. The Department of Transportation; [1997, c. 530, Pt. A, §16 (NEW).]

E. The Department of Education and local providers of programs under the federal Adult Education Act, 20 United States Code, Section 1201 et seq. and the federal Carl D. Perkins Vocational and Applied Technology Education Act, 20 United States Code, Section 2301 et seq.; [1997, c. 530, Pt. A, §16 (NEW).]

F. The Department of Economic and Community Development; [1997, c. 530, Pt. A, §16 (NEW).]

G. Statewide organizations that work with women on self-sufficiency and employment opportunities, including a statewide nonprofit corporation that provides training and placement in trade and technical occupations that are not traditional for the persons served; [2005, c. 397, Pt. C, §14 (AMD).]

H. The municipalities of the State both individually and collectively; [1997, c. 530, Pt. A, §16 (NEW).]

I. The Maine Community College System; [1997, c. 530, Pt. A, §16 (NEW); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

J. The University of Maine System; and [1997, c. 530, Pt. A, §16 (NEW).]

K. Local service providers appropriate for TANF participants. [1997, c. 530, Pt. A, §16 (NEW).]

[2005, c. 397, Pt. A, §23 (AMD); 2005, c. 397, Pt. C, §14 (AMD) .]

3. Administration. The department may administer and operate a program of aid to needy dependent children, called "Temporary Assistance for Needy Families" or "TANF," who are deprived of support or care due to the death, continued absence, physical or mental incapacity of a parent or the unemployment or underemployment of the principal wage earner in accordance with the United States Social Security Act, as amended by PRWORA and DRA, and this Title.

A. The department shall adopt rules as necessary to implement and administer the program. The rules must include eligibility criteria, budgeting process, benefit calculation and confidentiality. The confidentiality rules must ensure that confidentiality is maintained for TANF recipients at least to the same extent that confidentiality was maintained for families in the Aid to Families with Dependent Children program unless otherwise required by federal law or regulation. [1997, c. 530, Pt. A, §16 (NEW).]

B. The department may use funds, insofar as resources permit, provided under and in accordance with the United States Social Security Act or state funds appropriated for this purpose or a combination of state and federal funds to provide assistance to families under this chapter. In addition to assistance for families described in this subsection, funds must be expended for the following purposes:

(1) To continue the pass-through of the first \$50 per month of current child support collections and the exclusion of the \$50 pass-through from the budget tests and benefit calculations;

(2) To provide financial assistance to noncitizens legally admitted to the United States who are receiving assistance under this subsection as of July 1, 2011. Recipients of assistance under this subparagraph are limited to the categories of noncitizens who would be eligible for the TANF programs but for their status as aliens under PRWORA. Eligibility for the TANF program for these categories of noncitizens must be determined using the criteria applicable to other recipients of assistance from the TANF program. Any household receiving assistance as of July 1, 2011 may continue to receive assistance, as long as that household remains eligible, without regard to interruptions in coverage or gaps in eligibility for service. A noncitizen legally admitted to the United States who is neither receiving assistance on July 1, 2011 nor has an application pending for assistance on July 1, 2011 that is later approved is not eligible for financial assistance through a state-funded program unless that noncitizen is:

(a) Elderly or disabled, as described under the laws governing supplemental security income in 42 United States Code, Sections 1381 to 1383f (2010);

(b) A victim of domestic violence;

- (c) Experiencing other hardship, such as time necessary to obtain proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; or
 - (d) Unemployed but has obtained proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;
- (3) To provide benefits to certain 2-parent families whose deprivation is based on physical or mental incapacity;
- (4) To provide an assistance program for needy children, 19 to 21 years of age, who are in full-time attendance in secondary school. The program is operated for those individuals who qualify for TANF under the United States Social Security Act, except that they fail to meet the age requirement, and is also operated for the parent or caretaker relative of those individuals. Except for the age requirement, all provisions of TANF, including the standard of need and the amount of assistance, apply to the program established pursuant to this subparagraph;
- (5) To provide assistance for a pregnant woman who is otherwise eligible for assistance under this chapter, except that she has no dependents under 19 years of age. An individual is eligible for the monthly benefit for one eligible person if the medically substantiated expected date of the birth of her child is not more than 90 days following the date the benefit is received;
- (6) To provide a special housing allowance for TANF families whose shelter expenses for rent, mortgage or similar payments, homeowners insurance and property taxes equal or exceed 75% of their monthly income. The special housing allowance is limited to \$200 per month for each family. For purposes of this subparagraph, "monthly income" means the total of the TANF monthly benefit and all income countable under the TANF program, plus child support received by the family, excluding the \$50 pass-through payment;
- (7) In determining benefit levels for TANF recipients who have earnings from employment, the department shall disregard from monthly earnings the following:
- (a) One hundred and eight dollars;
 - (b) Fifty percent of the remaining earnings that are less than the federal poverty level; and
 - (c) All actual child care costs necessary for work, except that the department may limit the child care disregard to \$175 per month per child or \$200 per month per child under 2 years of age or with special needs;
- (8) In cases when the TANF recipient has no child care cost, the monthly TANF benefit is the maximum payment level or the difference between the countable earnings and the standard of need established by rule adopted by the department, whichever is lower;
- (9) In cases when the TANF recipient has child care costs, the department shall determine a total benefit package, including TANF cash assistance, determined in accordance with subparagraph (7) and additional child care assistance, as provided by rule, necessary to cover the TANF recipient's actual child care costs up to the maximum amount specified in section 3782-A, subsection 5. The benefit amount must be paid as provided in this subparagraph.
- (a) Before the first month in which child care assistance is available to an ASPIRE-TANF recipient under this paragraph and periodically thereafter, the department shall notify the recipient of the total benefit package and the following options of the recipient: to receive the total benefit package directly; or to have the department pay the recipient's child care assistance directly to the designated child care provider for the recipient and pay the balance of the total benefit package to the recipient.
 - (b) If an ASPIRE-TANF recipient notifies the department that the recipient chooses to receive the child care assistance directly, the department shall pay the total benefit package to the recipient.

(c) If an ASPIRE-TANF recipient does not respond or notifies the department of the choice to have the child care assistance paid directly to the child care provider from the total benefit package, the department shall pay the child care assistance directly to the designated child care provider for the recipient. The department shall pay the balance of the total benefit package to the recipient;

(10) Child care assistance under this paragraph must be paid by the department in a prompt manner that permits an ASPIRE-TANF recipient to access child care necessary for work; and

(11) The department shall adopt rules pursuant to Title 5, chapter 375 to implement this subsection. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2013, c. 368, Pt. OO, §3 (AMD); 2013, c. 368, Pt. UUU, §1 (AMD); 2013, c. 368, Pt. UUU, §2 (AFF).]

[2013, c. 368, Pt. OO, §3 (AMD); 2013, c. 368, Pt. UUU, §1 (AMD); 2013, c. 368, Pt. UUU, §2 (AFF) .]

4. Promoting support by both parents. The department shall enforce laws and establish policies to ensure that both parents contribute to the economic support of their child or children and to promote every child's right to economic support from both parents. Applicants for and recipients of assistance may refuse to cooperate in the establishment of paternity or child support enforcement for good cause related to domestic violence, including situations when cooperation may result in harm to the parent or child, or when the child was conceived as a result of incest or rape. Evidence supporting a good cause determination includes, but is not limited to, the evidence specified in section 3785, subsection 13. The department shall notify all applicants and recipients orally and in writing of the availability of this determination. When a determination of good cause is made by the department, the department may not impose sanctions or penalties against the applicant or recipient or engage in any other activity that could subject any member of the family to harm.

[1997, c. 530, Pt. A, §16 (NEW) .]

5. Move to sustainable employment. The department shall assist parents who receive TANF assistance to move as quickly as possible into employment that will sustain the family.

[1997, c. 530, Pt. A, §16 (NEW) .]

6. Training; partnerships. The department shall increase the employability of parents who receive TANF assistance through on-the-job training and strengthening the public and private workforce partnership by developing training sites and jobs for those parents.

[1997, c. 530, Pt. A, §16 (NEW) .]

7. Teenage pregnancies; minimization. The department shall provide education and services to minimize teenage pregnancies with special attention paid to the role of the male.

[1997, c. 530, Pt. A, §16 (NEW) .]

8. Transitional support services. The department shall administer a program of transitional support services in accordance with PRWORA, DRA and this subsection.

A. The department shall administer a program of transitional Medicaid to families receiving benefits under Section 1931 of the federal Social Security Act in accordance with this paragraph.

(1) The department shall provide transitional Medicaid to families whose average gross monthly earnings, less costs to the family for child care necessary for employment, do not exceed 185% of the federal poverty guidelines in accordance with PRWORA and this subsection. In order to receive

transitional Medicaid as the result of increased earnings or number of hours worked, a family must have received Medicaid assistance for at least 3 of the last 6 months, except as provided in subparagraph (2).

(2) The department shall provide transitional Medicaid for families whose eligibility for Medicaid assistance terminated due to employment obtained through work search activities pursuant to this chapter, in which case the family must have received Medicaid assistance for at least one of the last 3 months.

(3) To continue to receive transitional Medicaid assistance following the first 6 months of coverage, a family entering the transitional Medicaid program with income above 133% of the federal poverty guidelines must pay premiums in accordance with rules adopted by the department.

(5) The department shall provide transitional Medicaid for 4 months to families whose eligibility for Medicaid assistance terminated due to an increase in the amount of child support received by the family.

(6) The department shall require reporting of income or circumstances for the purpose of determining eligibility and premium payments, copayments or other methods of cost sharing for benefits under this paragraph in accordance with rules adopted by the department.

(7) The scope of services provided under this paragraph must be the same as the scope of services provided when a family received Medicaid assistance. [1999, c. 731, Pt. 00, §2 (AMD).]

B. The department shall provide limited transitional transportation benefits to meet employment-related costs to ASPIRE-TANF program participants who lose eligibility for TANF assistance due to employment. The department may also make transitional transportation benefits available to families in which one or both adults are working and who, although they remain financially eligible for TANF benefits, request that their benefits be terminated. Benefits may be provided for up to 12 months following loss of TANF eligibility. The department may adopt rules that impose a weekly limit on available transitional transportation benefits and that require a contribution from each participant toward the cost of transportation. [2013, c. 97, §1 (AMD).]

C. The department shall make available transitional child care services to families who lose eligibility for TANF as a result of increased earnings or an increase in the number of hours worked. The department shall make available transitional child care services to families who lose eligibility for TANF as a result of increased earnings or an increase in the number of hours worked and whose gross income is equal to or less than 250% of the federal poverty guidelines. The department may also make transitional child care services available to families in which one or both adults are working and who, although they remain financially eligible for TANF benefits, request that their benefits be terminated. The family shall pay a premium of 2% to 10% of gross income, based on the family's gross income compared to the federal poverty level in accordance with rules adopted by the department. Parents must have a choice of child care within the rate established by the department. [2009, c. 291, §6 (AMD).]

D. [2011, c. 655, Pt. S, §1 (RP).]

E. Beginning October 1, 2011, the department shall establish maximum rates for child care that are at least equal to the 75th percentile of local market rates for various categories of child care and higher rates for children with special needs. [2009, c. 291, §6 (NEW).]

F. The department may provide limited transitional food benefits to meet the needs of food supplement benefit recipients living with one or more dependent children under 18 years of age who are working at least 30 hours per week or who are working at least 20 hours per week if one or more dependent child is under 6 years of age. The benefit may not exceed \$50 per month per family. [2011, c. 655, Pt. S, §2 (NEW).]

[2013, c. 97, §1 (AMD) .]

9. Procedures. The following procedural requirements apply to the program:

A. The department shall make information on the program available to the public in written form understandable at the 6th-grade reading level and orally, as needed. [1997, c. 530, Pt. A, §16 (NEW).]

B. The department shall take written applications for assistance, which must be available on request. The department shall provide the applicant written notice of the granting or denial of assistance within 30 days of application. If the family is granted assistance, the notice must state the amount of the benefit. Assistance must be provided promptly to an eligible family without any delay attributable to the administrative process and must be continued regularly to all eligible individuals until they are found to be ineligible. Applicants and recipients must be provided with timely and adequate notice of any intended action to discontinue, terminate, suspend or reduce assistance or to change the manner of paying cash assistance to a protective payee, vendor or through a 2-party payment. Notices under this paragraph must inform the applicant of the right to a fair hearing before an impartial hearing officer and also inform the applicant how to request a hearing. Hearing requests may be made orally or in writing. Hearings must be conducted pursuant to the Maine Administrative Procedure Act. [1997, c. 530, Pt. A, §16 (NEW).]

C. The department shall establish uniform statewide eligibility criteria and benefit levels under the TANF program except as provided in this chapter or chapter 1054-A. Eligibility criteria and benefit levels may not result in cash assistance levels below those in effect on June 1, 1997. [1997, c. 530, Pt. A, §16 (NEW).]

[1997, c. 530, Pt. A, §16 (NEW) .]

10. Domestic violence. The following provisions apply with regard to victims of domestic violence.

A. The department shall provide all applicants for assistance under this chapter with information both orally and in writing of the availability of services for victims of domestic violence and of the good cause determination for victims of domestic violence under section 3785, subsection 13. If an applicant requests a good cause determination under section 3785, subsection 13, the department shall promptly determine whether the applicant qualifies for good cause. An individual may not be required to participate in any TANF activity including orientation until the good cause determination is made. [1997, c. 530, Pt. A, §16 (NEW).]

B. When a determination of good cause is made under section 3785, subsection 13, the ASPIRE-TANF program may contact the individual and offer domestic violence victim services or other appropriate services on a voluntary basis. [1997, c. 530, Pt. A, §16 (NEW).]

[1997, c. 530, Pt. A, §16 (NEW) .]

11. Treatment of lump sum income. For the purpose of determining eligibility for and the amount of assistance under TANF, the department shall treat any nonrecurring lump sum income received by a family in accordance with this subsection.

A. Nonrecurring lump sum income includes, but is not limited to, personal injury awards, lottery winnings, inheritances and similar nonrecurring forms of income. It does not include income earmarked by the payor for particular expenses such as awards or insurance proceeds earmarked for medical expenses, attorney's fees or the replacement of lost property. Proceeds from the conversion of a nonliquid asset to a liquid asset must be treated as an asset and not as nonrecurring lump sum income. [1997, c. 530, Pt. A, §16 (NEW).]

B. Up to \$10,000 of nonrecurring lump sum income must be disregarded as income and excluded as an asset if used for the following purposes within 30 days of its receipt:

- (1) Deposit in a separate identifiable account, approved by the department. Withdrawals from such an account may only be for the purposes identified in subparagraphs (2) to (6) and paragraph C;
- (2) Expenses for education or job training to attend an accredited or approved postsecondary education or training institution;

- (3) The purchase or repair of a home that is the family's principal residence;
- (4) The purchase or repair of a vehicle used for transportation to work or to attend an education or training program;
- (5) Capital to start a small business for any family member 18 years of age or older; or
- (6) Placement in a family development account authorized by state law, to the extent that the total balance of such an account remains below \$10,000. [1997, c. 530, Pt. A, §16 (NEW) .]

C. The department shall disregard from income and exclude as an asset nonrecurring lump sum income used within 30 days of receipt or money withdrawn from an account established pursuant to paragraph B, subparagraph (1) or (6), if it is used for the purposes stated in paragraph B, subparagraphs (2) to (6) or to meet the following needs:

- (1) Health care costs of a household member that are medically necessary and that are not covered by public or private insurance;
- (2) To address an emergency that may cause the loss of shelter, employment or other basic necessities; or
- (3) To address other essential family needs approved by the department. [1997, c. 530, Pt. A, §16 (NEW) .]

D. Nonrecurring lump sum income in excess of the asset limit established in the TANF program that is used for purposes other than those enumerated in paragraphs B or C and nonrecurring lump sum income in excess of \$10,000 plus that asset limit must be counted as income and cause the household to be disqualified from receiving TANF assistance under this chapter. The household is disqualified for a period of months calculated by dividing the income countable under this paragraph by the standard of need established by the department for the household. [1997, c. 530, Pt. A, §16 (NEW) .]

[1997, c. 530, Pt. A, §16 (NEW) .]

12. Information about and application for Parents as Scholars. When there are fewer than 2000 enrollees in the Parents as Scholars Program under chapter 1054-B, the department shall inform all persons applying for TANF assistance and all recipients reviewing or requesting to amend their participation in the program of the Parents as Scholars Program and shall offer them the opportunity to apply for the program.

[1997, c. 530, Pt. A, §16 (NEW) .]

13. Reports to Legislature. The department shall provide information annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters in order to allow the Legislature to evaluate the TANF program. Such information must include but is not limited to the number of TANF households and family members, a comparison of TANF eligibility levels with the federal poverty level, the number of TANF participants in training, education and work activity components and the rates at which individuals who have found employment through ASPIRE-TANF return to the TANF program. The information must include a summary of any federal laws enacted in the previous fiscal year that may require changes in the ASPIRE-TANF program. The information of the federal law changes must include a summary of any potential positive or negative impact on the TANF program and the ASPIRE-TANF program.

[2007, c. 282, §1 (AMD) .]

14. Notification to Legislature. The department shall notify the joint standing committee of the Legislature having jurisdiction over health and human services matters of any request for waivers from the United States Department of Health and Human Services or any other federal agency concerning the implementation of chapters 1053-A, 1054, 1054-A and 1054-B.

[1997, c. 530, Pt. A, §16 (NEW) .]

15. Conditions of continued assistance.

[2011, c. 380, Pt. PP, §1 (RP) .]

16. Authorization of fund transfer. Notwithstanding any provision of law to the contrary, the department is authorized to transfer to the TANF account any funds available in the ASPIRE-TANF account necessary to meet the purposes of TANF, including the purposes established in subsection 3, paragraph B.

[2001, c. 338, §4 (NEW) .]

17. Prohibition against denial of assistance based on drug conviction. A person who is otherwise eligible to receive TANF may not be denied assistance because the person has been convicted of a drug-related felony as described in Section 115 of PRWORA.

[2001, c. 598, §2 (NEW) .]

18. Lifetime limit on assistance. Beginning January 1, 2012, a family may not receive TANF assistance for longer than 60 months except in those cases in which the department has determined that the family qualifies for an exemption or extension under rules adopted by the department. When an adult has received TANF assistance for 60 months, unless the adult has been exempted or granted an extension by the department, the family unit in which the adult is a member is ineligible for assistance. The department shall consider conditions or situations beyond the control of the adult recipient, including but not limited to a physical or mental condition that prevents the adult from obtaining or retaining gainful employment, being a victim of domestic violence, participating in good standing in an approved education program or a program that is expected to lead to gainful employment, being the caretaker relative in the household who is not the parent of the child or children in the assistance unit and who is required to remain at home to care for a dependent in the assistance unit and loss of employment by the adult following termination of TANF under this subsection.

The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

(Subsection 18 as enacted by PL 2011, c. 380, Pt. LL, §1 is REALLOCATED TO TITLE 22, SECTION 3762, SUBSECTION 20)

[2011, c. 380, Pt. PP, §2 (NEW) .]

19. Pretermination notice process. No later than 120 days prior to the end of a family's 60th month of receiving assistance, the department shall offer the adult recipient an opportunity to hold a meeting to review the family's case and:

A. Explain the exemption and extension criteria established in subsection 18 to the family and determine if those criteria apply to the family; and [2011, c. 380, Pt. PP, §2 (NEW) .]

B. Explain that any determination made pursuant to this subsection may be appealed in accordance with the hearing process established in subsection 9, paragraph B. [2011, c. 380, Pt. PP, §2 (NEW) .]

For a family whose assistance is to be terminated, a supervisory review by the department is required. The review must include but is not limited to an evaluation of the need for additional information to determine if cause for an exemption or extension exists. If the conclusion of the evaluation determines additional vocational, health, mental health or other information is necessary, the department shall work in collaboration with the adult recipient in the development of the information prior to the determination of status or termination.

For a family whose assistance is to be terminated pursuant to this subsection, the department shall provide information to the family regarding any other resources that may be available to help meet that family's basic needs.

[2011, c. 380, Pt. PP, §2 (NEW) .]

20. (REALLOCATED FROM T. 22, §3762, sub-§18) Denial of assistance based on positive drug test.

A recipient of TANF assistance may be denied TANF assistance as described in this subsection.

A. The department may administer a drug test to a recipient of TANF assistance who has been convicted of a drug-related felony, as described in Section 115 of PRWORA, within 20 years of that person's date of conviction. [2011, c. 1, §33 (RAL) .]

B. If a person under paragraph A tests positive for an illegal drug, the department shall notify that person that:

- (1) The person's TANF assistance is subject to termination;
- (2) The person is entitled to a fair hearing regarding the termination of TANF assistance; and
- (3) If the person requests a fair hearing, the person shall submit to a 2nd drug test to verify the results of the first drug test. [2011, c. 1, §33 (RAL) .]

C. The results of the 2nd drug test must be available prior to the fair hearing, if practicable. The person shall cooperate in a timely manner in submitting to the 2nd drug test. If the 2nd drug test confirms that the person is using an illegal drug, the person may avoid termination of TANF assistance by enrolling in a substance abuse treatment program appropriate to the type of illegal drug being used by that person. [2011, c. 1, §33 (RAL) .]

D. If the department determines that, for good cause, a person is unable to enroll in a substance abuse program as required by paragraph C, the person remains eligible for TANF assistance until such time that the department determines that the person is able to enroll in a substance abuse treatment program. [2011, c. 1, §33 (RAL) .]

E. The department shall terminate TANF assistance to a person who fails to request a fair hearing and submit to a 2nd drug test as described in paragraph B or who fails to participate in a substance abuse treatment program as required pursuant to paragraph C or D. [2011, c. 1, §33 (RAL) .]

The department shall adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of this subsection, including determining what constitutes "good cause" under paragraph D.

[2011, c. 1, §33 (RAL) .]

SECTION HISTORY

1997, c. 530, §A16 (NEW). 1997, c. 695, §1 (AMD). 1997, c. 795, §7 (AMD). 1999, c. 383, §1 (AMD). 1999, c. 401, §§3 (AMD). 1999, c. 731, §OO2 (AMD). 2001, c. 338, §§1-4 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 598, §2 (AMD). 2003, c. 20, §OO2 (AMD). 2003, c. 20, §OO4 (AFF). 2005, c. 397, §§A23,C14 (AMD). 2007, c. 282, §1 (AMD). 2007, c. 539, Pt. XX, §§1, 2 (AMD). 2009, c. 291, §§4-6 (AMD). RR 2011, c. 1, §33 (COR). 2011, c. 380, Pt. KK, §4 (AMD). 2011, c. 380, Pt. LL, §1 (AMD). 2011, c. 380, Pt. PP, §§1, 2 (AMD). 2011, c. 655, Pt. S, §§1, 2 (AMD). 2013, c. 97, §1 (AMD). 2013, c. 368, Pt. OO, §3 (AMD). 2013, c. 368, Pt. UUU, §1 (AMD). 2013, c. 368, Pt. UUU, §2 (AFF).

§3763. PROGRAM REQUIREMENTS

1. Family contract. During the TANF orientation process, a representative of the department and the TANF recipient shall enter into a family contract. The family contract must state the responsibilities of the parties to the agreement including, but not limited to, cooperation in child support enforcement and determination of paternity, the requirements of the ASPIRE-TANF program and referral to parenting activities and health care services. Except as provided in section 3762, subsection 4, refusal to sign the family contract or to abide by the provisions of the contract, except for referral to parenting activities and health care services, will result in termination of benefits under subsection 1-A. Failure to comply with referrals to parenting activities or health care services without good cause will result in a review and evaluation of the reason for noncompliance by the representative of the department and may result in sanctions. Written copies of the family contract and a notice of the right to a fair hearing must be given to the individual. The family contract must be amended in accordance with section 3788 when a participant enters the ASPIRE-TANF program and when participation review occurs.

Benefits that have been terminated under subsection 1-A must be restored once the adult recipient signs a new family contract and complies with its provisions.

[2013, c. 588, Pt. D, §4 (AMD) .]

1-A. Partial and full termination of benefits. Benefits under this chapter must be terminated by the department under the provisions of subsection 1 and sections 3785 and 3785-A as follows:

- A. For a first failure to meet the conditions of a family contract, termination of benefits applies to the adult recipient; [2011, c. 380, Pt. PP, §4 (NEW).]
- B. For a first failure to meet the conditions of a family contract for which termination of benefits under paragraph A lasts for longer than 90 days and for a 2nd and subsequent violation, termination of benefits applies to the adult recipient and the full family unit; and [2011, c. 380, Pt. PP, §4 (NEW).]
- C. Prior to the implementation of a full family unit sanction, the department shall offer the adult recipient an opportunity to claim good cause for noncompliance as described in section 3785. [2011, c. 380, Pt. PP, §4 (NEW).]

Benefits that have been terminated under this subsection must be restored once the adult recipient signs a new contract under subsection 1 and complies with the provisions of the family contract.

[2011, c. 380, Pt. PP, §4 (NEW) .]

2. Participation. A recipient of TANF shall participate in an education, training or employment program pursuant to this chapter unless exempt under paragraph A, B or C. The following individuals are exempt:

- A. A recipient who is the single custodial parent or a caretaker relative of a child under one year of age and is personally providing care for that child. This exemption is limited to no more than 12 months per single custodial parent or caretaker relative; [1997, c. 530, Pt. A, §16 (NEW).]
- B. A recipient who is not a parent or a caretaker relative; and [1997, c. 530, Pt. A, §16 (NEW).]
- C. A recipient who is a VISTA volunteer under the federal Domestic Volunteer Service Act of 1973. [1997, c. 530, Pt. A, §16 (NEW).]

[1997, c. 530, Pt. A, §16 (NEW) .]

3. Custodial parents not yet 20 years of age. A custodial parent under 20 years of age who is a recipient of TANF and has not completed high school or its equivalent shall participate in the ASPIRE-TANF program regardless of the age of the youngest child and attend courses to complete high school, with an emphasis on education in a traditional high school setting.

[1997, c. 530, Pt. A, §16 (NEW) .]

4. Households headed by minor parents. The following requirements apply to a custodial parent who is under 18 years of age and is not married:

A. The family must reside in the household of a parent, legal guardian or other adult relative of that minor parent or in an adult-supervised supportive living arrangement unless:

- (1) The minor parent does not have a living parent or legal guardian whose whereabouts are known;
- (2) A living parent or legal guardian of the minor parent does not allow the minor parent to live in the parent's or guardian's home;
- (3) The minor parent lived apart from the minor's own parent or legal guardian for a period of at least one year before the birth of the dependent child or the minor parent's application for TANF;
- (4) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if that minor parent or dependent child resided in the same residence with the minor parent's parent or legal guardian; or
- (5) There exists other good cause, as defined by rule adopted by the department; and [1997, c. 530, Pt. A, §16 (NEW) .]

B. TANF benefits must be distributed in the form of vouchers. [1997, c. 530, Pt. A, §16 (NEW) .]

[1997, c. 530, Pt. A, §16 (NEW) .]

5. Home visit. The department may implement a home visit program in which a representative of the department may visit the homes of all applicants for and recipients of TANF for the following purposes:

- A. To review the family contract; [1997, c. 530, Pt. A, §16 (NEW) .]
- B. To reinforce the reporting responsibilities of the family, including child support enforcement; [1997, c. 530, Pt. A, §16 (NEW) .]
- C. To verify information provided at the time of application, including checking social security numbers; and [1997, c. 530, Pt. A, §16 (NEW) .]
- D. To request and receive any additional information. [1997, c. 530, Pt. A, §16 (NEW) .]

[1997, c. 530, Pt. A, §16 (NEW) .]

6. Substantiation of eligibility. The department may appropriately substantiate the facts supporting eligibility stated in any application for TANF assistance. The department shall adopt rules for substantiating relevant facts. The rules must provide for assisting the applicant in obtaining substantiating information when necessary.

[1997, c. 530, Pt. A, §16 (NEW) .]

7. Earned income tax credit. The department shall advise applicants and recipients of Temporary Assistance for Needy Families regarding the federal earned income tax credit, including the opportunity to receive it as an advanced payment.

[1997, c. 530, Pt. A, §16 (NEW) .]

8. Alternative aid. The department shall provide alternative aid to applicants who seek short-term assistance in order to obtain or retain employment. The applicants must meet the eligibility requirements established by rule adopted pursuant to section 3762, subsection 3, paragraph A. The alternative aid may not exceed 3 times the value of the monthly TANF grant for which the applicant's family is eligible. An eligible applicant may receive alternative aid no more than once during any 12-month period. If the family reapplies for TANF within 3 months of receiving alternative aid, the family shall repay any alternative aid received in excess of the amount that the family would have received on TANF. The method of repayment must be the same as that used for the repayment of unintentional overpayments in the TANF program.

[2005, c. 522, §1 (AMD) .]

9. Emergency assistance. The department shall establish and operate a program of emergency assistance to needy families with children. This program must provide benefits to needy families with children in emergency situations in which the family is deprived of the basic necessities essential to its support, including but not limited to, fire and other natural disasters, terminations of utility service or lack of adequate shelter.

A. In determining what constitutes an emergency with respect to utility terminations, the department shall grant assistance when an otherwise qualified family has received a disconnection notice and has exhausted their ability to negotiate and pay the terms of a reasonable payment arrangement. [1997, c. 530, Pt. A, §16 (NEW).]

B. The program may not be used to supplant local responsibility for operating or funding a general assistance program. [1997, c. 530, Pt. A, §16 (NEW).]

C. The department may not expend more than \$750,000 annually of state general assistance funds for the purposes of covering the cost of services set out in this subsection. [1997, c. 530, Pt. A, §16 (NEW).]

[1997, c. 530, Pt. A, §16 (NEW) .]

10. Home survival skills. The department shall provide and may contract with public and private nonprofit agencies to provide instruction and experiential education for TANF recipients in nutrition, food preparation and home and money management.

[1997, c. 530, Pt. A, §16 (NEW) .]

SECTION HISTORY

1997, c. 530, §A16 (NEW). 2005, c. 522, §1 (AMD). 2011, c. 380, Pt. PP, §§3, 4 (AMD). 2013, c. 588, Pt. D, §4 (AMD).

§3764. FEDERAL GRANTS

The Treasurer of State is the appropriate fiscal officer of the State to receive federal grants on account of the TANF program and administration of those grants, in accordance with the United States Social Security Act, and the State Controller shall authorize expenditures as approved by the department. [1997, c. 530, Pt. A, §16 (NEW).]

SECTION HISTORY

1997, c. 530, §A16 (NEW).

§3765. PAYMENTS TO GUARDIAN OR CONSERVATOR

When a relative with whom a child is living is found by the department to be incapable of taking care of the child's money, payment may be made only to a legally appointed guardian or conservator and, notwithstanding Title 18-A, Article V, Part 4, in the matter of infirmities of age or physical disability to manage the child's estate with prudence and understanding, the Probate Court may appoint any suitable person as a conservator. [1997, c. 530, Pt. A, §16 (NEW).]

SECTION HISTORY

1997, c. 530, §A16 (NEW).

§3766. INALIENABILITY OF ASSISTANCE

All rights to public assistance are absolutely inalienable by any assignment, sale, execution, pledge or otherwise and may not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor. [1997, c. 530, Pt. A, §16 (NEW).]

SECTION HISTORY

1997, c. 530, §A16 (NEW).

§3767. PARENTAL RESPONSIBILITY

The parents of a child receiving assistance under this chapter are responsible for partial or total support of that child, if they are of sufficient ability. In determining the ability of the parents, the department must consider the assets and income of the parent. [1997, c. 530, Pt. A, §16 (NEW).]

The department may bring proceedings in the District Court or Superior Court in the county where the child resides or in the county where the parent may be found to compel any person liable under this section to contribute to the support of any child receiving that assistance if, after reasonable efforts on the part of the department, voluntary contributions have not been made. The department shall bring the action as a petition for support upon not less than 7 days' notice. The court may order either one or both parents of the child to contribute to the support of the child by paying money weekly or monthly as determined in accordance with Title 19, chapter 7, subchapter I-A and Title 19-A, chapter 63 and may enforce obedience by appropriate decrees, execution issuing for that money when payable. An order for child support under this section may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child or an order to provide a policy or contract for coverage of those expenses. When a parent is committed to jail as a defendant on execution under this section, the county having jurisdiction of the process shall bear the expense of the defendant's commitment and support. The defendant may petition the court issuing that execution for relief and the judge of the court, after due notice to the department and hearing on the petition, may order the defendant's discharge from imprisonment on the terms and conditions justice requires. [1997, c. 530, Pt. A, §16 (NEW).]

SECTION HISTORY

1997, c. 530, §A16 (NEW).

§3768. FRAUD IN OBTAINING AID, CIVIL RECOVERY

Any sums paid to or in behalf of any person under sections 3762 to 3765, as a result of any false statement, misrepresentation or concealment of assets or income, may be recovered in a civil action brought by the department against the person to whom such money was paid. [1997, c. 530, Pt. A, §16 (NEW).]

SECTION HISTORY

1997, c. 530, §A16 (NEW).

§3769. DISBURSEMENTS

1. Payment priority. Payments made on behalf of the department for TANF assistance, the Parents as Scholars Program under chapter 1054-B and for foster care have priority over other payments and must be made without delay whether or not they are pursuant to a state plan or contract. The department shall cooperate with other state agencies to accomplish priority payments.

[1997, c. 530, Pt. A, §16 (NEW) .]

2. Transfer of funds.

[2007, c. 282, §2 (RP) .]

3. Balances of funds not to lapse. Any balances of funds appropriated for TANF or ASPIRE-TANF may not lapse but must be carried forward from year to year to be expended for the same purposes.

[2009, c. 571, Pt. XX, §1 (NEW) .]

SECTION HISTORY

1997, c. 530, §A16 (NEW). 2007, c. 282, §2 (AMD). 2009, c. 571, Pt. XX, §1 (AMD).

§3769-A. RULEMAKING

The department shall adopt rules to implement this chapter. Except as specifically provided, rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1997, c. 530, Pt. A, §16 (NEW).]

SECTION HISTORY

1997, c. 530, §A16 (NEW).

§3769-B. ASSISTANCE IN MEETING BASIC NEEDS

Beginning July 1, 1998 and ending June 30, 1999, the department shall increase the maximum amount of TANF assistance by an amount equal to 5% of the maximum payments that were in effect on January 1, 1998 and shall increase the standard of need to maintain the same differential between the maximum payment and the standard of need that was in effect on January 1, 1998. [1999, c. 401, Pt. S, §4 (AMD).]

Beginning July 1, 1999, the department shall increase the maximum amount of TANF assistance by an amount equal to 5% of the maximum payments that were in effect on July 1, 1998 for assistance units with no earned income disregard and shall increase the standard of need to maintain the same differential between the maximum payment and the standard of need that was in effect on January 1, 1998. [1999, c. 401, Pt. S, §4 (NEW).]

1. Limitation.

[1999, c. 401, Pt. S, §4 (RP) .]

2. Determination of eligibility. In determining eligibility for TANF benefits for applicants after July 1, 1998, the department shall use the gross income pretest in effect on January 1, 1998.

[1997, c. 643, Pt. VV, §1 (NEW) .]

3. Coordination with special housing allowance.

[1999, c. 401, Pt. S, §4 (RP) .]

SECTION HISTORY

1997, c. 643, §VV1 (NEW). 1999, c. 401, §S4 (AMD).

§3769-C. ADJUSTMENT TO AMOUNT OF ASSISTANCE; REPORT

1. Amount of assistance. It is the goal of this section to provide low-income families with children sufficient income to meet their most basic needs. If the commissioner determines that unexpended funds are available within the Department of Health and Human Services ASPIRE or TANF accounts, the commissioner may, by rule, use those funds to increase the maximum levels of assistance in the TANF Program.

A. Beginning October 1, 2001, the department shall use unexpended funds in the TANF program to increase the maximum amount of TANF assistance by an amount equal to 5% of the maximum payments that were in effect on January 1, 2001, and shall increase the standard of need to maintain the same differential between the maximum payment and the standard of need that was in effect on January 1, 2001. Initial applicants for assistance may not become eligible for assistance as a result of any increase in the standard of need required by this paragraph. [2001, c. 439, Pt. CC, §1 (NEW).]

B. Beginning with the 2004-2005 fiscal biennium, the commissioner must continue the 5% benefit increase provided for in paragraph A in the department's current services budget request for the TANF block grant. [2001, c. 439, Pt. CC, §1 (NEW).]

[2001, c. 439, Pt. CC, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Report required.

[2009, c. 291, §7 (RP) .]

SECTION HISTORY

1999, c. 461, §1 (NEW). 2001, c. 439, §CC1 (AMD). 2003, c. 689, §B6 (REV). 2009, c. 291, §7 (AMD).

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